

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA
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4 STATE OF OKLAHOMA, ex rel,)
5 W.A. DREW EDMONDSON, in his)
6 capacity as ATTORNEY GENERAL)
7 OF THE STATE OF OKLAHOMA,)
8 et al.)

9 Plaintiffs,)

10 vs.)

CASE NO. 05-CV-329-GKF-PJC

11 TYSON FOODS, INC., et al.,)

12 Defendants.)
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15 TRANSCRIPT OF PROCEEDINGS
16 JULY 28, 2009
17 BEFORE THE HONORABLE GREGORY K. FRIZZELL, DISTRICT JUDGE
18 MOTION HEARING, VOLUME I
19

20 APPEARANCES:
21

22 For the Plaintiffs:

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1 a relationship between poultry marker and fecal indicator must
2 take into account the expected level of poultry contamination.

3 Dr. Harwood's conclusions regarding risks to human
4 health in the IRW from fecal indicator bacteria from poultry
5 litter are unsupported by the data.

6 For instance, 80 percent of campylobacter illness and
7 95 percent of salmonella illness is food borne, not
8 waterborne. Moreover, as one peer reviewer stated, "The
9 relationship of fecal indicators with human health risk was
10 developed at sites contaminated primarily with human waste.
11 This relationship is not expected to be the same for water
12 contaminated with feces from nonhuman sources." That's from
13 the peer review.

14 In contrary to the argument that Dr. Harwood reached
15 her health risk conclusion independent from her work on the
16 biomarker, her Rule 26 report recognizes that the biomarker is
17 her link between poultry litter and allegations of health risk
18 from human pathogens such as salmonella and campylobacter.

19 Moreover, Dr. Harwood's proposed article stated that
20 the magnitude of the impact cannot be quantified with the
21 limited number of environmental samples processed.

22 Now, that still raises the issue and does not address
23 the issue raised by Mr. Page as to whether she might be able to
24 testify to other more generalized health risks from fecal
25 indicator bacteria, and I'm not deciding that here today.